IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22788 of 2004

Between:

N. Sujathamma, W/o. P. Hanumantha Reddy,
R/o. H.No. 1-390, Panchalingala Village, Kurnool Mandal & District.

... PETITIONER

AND

1 The Joint Collector, Kurnool District, Kurnool.
2 The Revenue Divisional Officer, Kurnool, Kurnool District.
3 The Mandal Revenue Officer, Kurnool Mandal & District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction or particularly one in the nature of writ of Mandamus, declaring the action of the 2nd respondent in suspending the petitioner authorisation as Fair Price shop dealer of Panchalingala Village, Kurnool Mandal, & District vide proceedings Rc.B.1547/2004 dt. 11.11.2004 on untenable and flimsy grounds, yielding to the political pressures and further action of the 1st respondent in not passing any orders in the appeal filed by the petitioner, as illegal, arbitrary and violative of Article 14, 19 and 21 of Constitution of India and consequently to set aside the above stated impugned proceedings of the 2nd respondent.

Counsel for the Petitioner:MR.K.RATHANGA PANI REDDY

Counsel for the Respondents : GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

O R D E R:

The petitioner is the dealer of Fair Price Shop of Panchalingala village, Kurnool Mandal & District. Her authorization has been suspended by the second respondent, through the order dated 11.11.2004, on the ground that she is not residing in the village and her father is running the shop. She preferred an appeal to the first respondent, together with an application for grant of stay. No orders have been passed so far either in the appeal, or in the application for grant of stay. The petitioner challenges the inaction of the first respondent, as well as the order dated 11.11.2004, passed by the second respondent.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The petitioner had already availed the remedy of appeal, and she is said to have filed an application for grant of stay. Delay in disposal of the applications for interim orders would, many a time, defeat the very purpose of preferring the appeals. The only allegation against the petitioner is that she is not residing in the village. It is not even alleged that she has failed to distribute any commodities supplied to her, or that she has diverted them to black market. Certain observations are made in the order, which are totally out side the scope of the powers of the second respondent. Another important aspect of the matter is that the order does not state that the authorization is suspended pending enquiry. Naturally, it has to be treated as the one as a substantive penalty. In such an event, it is required to be preceded by a show-cause notice and enquiry. Admittedly, no show-cause notice was issued before the order of suspension was passed.

Having regard to these facts and circumstances, the writ petition is disposed of, directing that the order of suspension dated 11.11.2004, passed against the petitioner, shall remain stayed, pending disposal of the appeal by the first respondent, and that the petitioner shall be entitled to distribute the commodities during that period. There shall be no order as to costs.

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9th December, 2004

Note: Issue copy by tomorrow.

(B/o)

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To

1 The Joint Collector, Kurnool District, Kurnool.
2 The Revenue Divisional Officer, Kurnool, Kurnool District.
3 The Mandal Revenue Officer, Kurnool Mandal & District.

4. Two C.Cs to the Govt.Pleader for Civil Supplies,

High Court buildings, Hyderabad (OUT).

5 Two CD copies